

104TH CONGRESS
1ST SESSION

S. 613

To authorize the Secretary of Veterans Affairs to conduct pilot programs in order to evaluate the feasibility of the participation of the Department of Veterans Affairs health care system in the health care systems of States that have enacted health care reform.

IN THE SENATE OF THE UNITED STATES

MARCH 24 (legislative day, MARCH 23), 1995

Mr. ROCKEFELLER (for himself, Mr. GRAHAM, Mr. AKAKA, Mr. DORGAN, Mr. MURKOWSKI, Mr. JEFFORDS, Mr. DASCHLE, Mr. LEAHY, Mrs. MURRAY, and Mr. WELLSTONE) introduced the following bill; which was read twice and referred to the Committee on Veterans' Affairs

A BILL

To authorize the Secretary of Veterans Affairs to conduct pilot programs in order to evaluate the feasibility of the participation of the Department of Veterans Affairs health care system in the health care systems of States that have enacted health care reform.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “VA State Health Care
5 Reform Pilot Program Act”.

1 **SEC. 2. PURPOSE OF PILOT PROGRAMS.**

2 The purpose of this Act is to authorize the participa-
3 tion of the Department of Veterans Affairs health care
4 system in the health care systems of States that have en-
5 acted health care reform in order to evaluate the most ap-
6 propriate means of enabling the Department health care
7 system to participate in such systems and in the National
8 health care system contemplated under any plans for Na-
9 tional health care reform.

10 **SEC. 3. HEALTH CARE PILOT PROGRAMS.**

11 (a) IN GENERAL.—The Secretary may carry out pilot
12 programs on the participation of the Department of Veter-
13 ans Affairs health care system in the health care systems
14 of States that have adopted comprehensive health benefit
15 plans. The Secretary shall carry out any pilot program
16 under this Act in accordance with the provisions of this
17 Act.

18 (b) STATES ELIGIBLE FOR DESIGNATION.—(1) The
19 Secretary shall designate each of not more than five States
20 as a location for a pilot program under this Act. The Sec-
21 retary shall complete the designation of States as locations
22 for pilot programs not later than 30 days after the date
23 of the enactment of this Act.

24 (2) The Secretary may designate a State as a location
25 for a pilot program under this Act if the Secretary deter-
26 mines that—

1 (A) the State has enacted, or will soon enact,
2 a statute establishing or providing for a comprehen-
3 sive health benefit plan; and

4 (B) the participation of the health care system
5 of the Department under the plan is feasible and ap-
6 propriate in light of the purpose of this Act.

7 (c) DEPARTMENT PARTICIPATION IN STATE HEALTH
8 BENEFIT PLANS.—(1) To the maximum extent prac-
9 ticable, the Secretary shall provide eligible persons under
10 each pilot program under this Act with the comprehensive
11 package of basic health care benefits that would otherwise
12 be available to such persons under the comprehensive
13 health benefit plan of the State in which the pilot program
14 is carried out. The Secretary shall provide such benefits
15 through the health care system of the Department in such
16 State as if such system were a provider of such benefits
17 under such plan.

18 (2) Notwithstanding any other provision of law, a
19 State may not prohibit the participation of the Depart-
20 ment under the comprehensive health benefit plan of the
21 State under a pilot program unless the chief executive offi-
22 cer of the State certifies to the Secretary that—

23 (A) the benefits to be provided by the Depart-
24 ment under the pilot program do not meet require-

1 ments for quality of benefits established by or pro-
2 vided under the plan; or

3 (B) the location of Department facilities (in-
4 cluding facilities providing services by contract or
5 agreement with the Secretary) in the State is such
6 that the proximity of eligible persons to such facili-
7 ties does not meet requirements so established for
8 such proximity.

9 (3) Not later than 30 days after the designation of
10 a State as a location for a pilot program under this Act,
11 and at such other times as the Secretary may determine,
12 the Secretary and the health system director for that State
13 shall jointly determine the regulations under the authority
14 of the Secretary the waiver or modification of which is nec-
15 essary in order to facilitate the carrying out of the pilot
16 program. Upon such determination, the Secretary shall
17 waive or modify the application of such regulations to the
18 pilot program.

19 (4) The Secretary shall furnish any eligible person
20 living in a State in which a pilot program is carried out
21 (including any eligible person electing to receive benefits
22 under the pilot program and any eligible person not elect-
23 ing to receive benefits under the pilot program) with the
24 health care benefits for which such person is eligible under
25 chapter 17 of title 38, United States Code, notwithstand-

1 ing that the comprehensive package of basic health care
2 benefits provided under the comprehensive health benefit
3 plan of the State does not otherwise include such health
4 care benefits. The Secretary shall furnish any health care
5 benefits under this paragraph in accordance with the pro-
6 visions of that chapter.

7 (5) The Secretary may not provide any health care
8 benefit under a pilot program under this Act that the Sec-
9 retary is not otherwise authorized to provide under the
10 laws administered by the Secretary.

11 (d) HEALTH SYSTEM DIRECTOR.—(1) The Secretary
12 shall designate a health system director for each State in
13 which a pilot program is carried out under this Act. To
14 the maximum extent feasible, the Secretary shall delegate
15 to the health system directors the responsibilities of the
16 Secretary under this Act.

17 (2)(A) Subject to subparagraph (B), the Secretary
18 shall designate an individual as health system director for
19 a State from among nominees for that position selected
20 by a panel composed of individuals who are senior man-
21 agement personnel of the Department medical centers lo-
22 cated in that State.

23 (B) An individual selected for nomination to be a
24 health system director of a State under subparagraph (A)
25 shall be—

1 (i) the director or chief of staff of a Depart-
2 ment medical center located in the State in which
3 the pilot program is carried out; or

4 (ii) any other individual having experience with
5 the Department medical system that is equivalent to
6 the experience with that system of an individual in
7 a position referred to in clause (i).

8 (e) ADMINISTRATIVE REORGANIZATION.—The Sec-
9 retary may carry out any administrative reorganization of
10 an office, facility, activity, or function of the health care
11 system of the Department in a State in which a pilot pro-
12 gram is carried out that the Secretary and the health sys-
13 tem director jointly determine to be necessary in order to
14 facilitate the carrying out of the pilot program. Section
15 510(b) of title 38, United States Code, shall not apply to
16 any such administrative reorganization.

17 (f) PROVISION OF BENEFITS.—(1)(A) Except as pro-
18 vided in subparagraph (B), the Secretary shall provide
19 health care benefits under a pilot program—

20 (i) through the direct provision of such services
21 by the health care system of the Department in the
22 State in which the pilot program is carried out; or

23 (ii) by contract or other agreement in accord-
24 ance with paragraph (2).

1 (B) The Secretary may exclude facilities of the De-
2 partment from participation in a pilot program. Any facili-
3 ties so excluded shall continue to provide health care bene-
4 fits to veterans and other persons eligible for such benefits
5 in accordance with the provisions of laws administered by
6 the Secretary.

7 (2) The health system director of a pilot program
8 may enter into contracts and agreements for the provision
9 of health care services and contracts and agreements for
10 other services with respect to the pilot program under
11 paragraph (1)(A)(ii). Any such contract or agreement (in-
12 cluding any lease) shall not be subject to the following pro-
13 visions of law:

14 (A) Section 8110(c) of title 38, United States
15 Code, relating to contracting of services at Depart-
16 ment health-care facilities.

17 (B) Section 8122(a)(1) of such title, relating to
18 the lease of Department property.

19 (C) Section 8125 of such title, relating to local
20 contracts for the procurement of health-care items.

21 (D) Section 702 of title 5, United States Code,
22 relating to the right of review of agency wrongs by
23 courts of the United States.

24 (E) Sections 1346(a)(2) and 1491 of title 28,
25 United States Code, relating to the jurisdiction of

1 the district courts of the United States and the
2 United States Court of Federal Claims, respectively,
3 for the actions enumerated in such sections.

4 (F) Subchapter V of chapter 35 of title 31,
5 United States Code, relating to adjudication of pro-
6 tests of violations of procurement statutes and regu-
7 lations.

8 (G) Sections 3526 and 3702 of such title, relat-
9 ing to the settlement of accounts and claims, respec-
10 tively, of the United States.

11 (H) Subsections (b)(7), (e), (f), (g), and (h) of
12 section 8 of the Small Business Act (15 U.S.C.
13 637(b)(7), (e), (f), (g), and (h)), relating to require-
14 ments with respect to small businesses for contracts
15 for property and services.

16 (I) The provisions of law assembled for pur-
17 poses of codification of the United States Code as
18 section 471 through 544 of title 40 that relate to the
19 authority of the Administrator of General Services
20 over the lease and disposal of Federal Government
21 property.

22 (J) The Office of Federal Procurement Policy
23 Act (41 U.S.C. 401 et seq.), relating to the procure-
24 ment of property and services by the Federal Gov-
25 ernment.

1 (K) Chapter 3 of the Federal Property and Ad-
2 ministrative Services Act of 1949 (41 U.S.C. 251 et
3 seq.), relating to the procurement of property and
4 services by the Federal Government.

5 (L) Office of Management and Budget Circular
6 A-76.

7 (3)(A) Notwithstanding any other provision of law,
8 contracts and agreements for the provision of health care
9 services under this subsection may include contracts and
10 other agreements with insurers, health care providers, or
11 other individuals or entities that provide health care serv-
12 ices.

13 (B) Contracts and agreements under this paragraph
14 may be entered into without prior review by the Central
15 Office of the Department.

16 (4)(A) Contracts and agreements under this sub-
17 section for services other than the services referred to in
18 paragraph (3) (including contracts and agreements for
19 procurement of equipment, maintenance and repair serv-
20 ices, and other services related to the provision of health
21 care services) shall not be subject to prior review by the
22 Central Office if the amount of such contracts or agree-
23 ments is less than \$250,000.

24 (B) Contracts and agreements for services under this
25 paragraph shall be subject to prior review by the Central

1 Office if the amount of such contracts or agreements is
2 \$250,000 or greater. If the Central Office fails to approve
3 or reject a contract or agreement under this clause within
4 30 days of its submittal to the Central Office, such con-
5 tract or agreement shall be deemed approved by the
6 Central Office.

7 (g) DEPARTMENT PERSONNEL.—(1) Notwithstand-
8 ing any other provision of law and to the extent necessary
9 to carry out the purpose of a pilot program, the Secretary
10 may—

11 (A) appoint personnel to positions in the health
12 care system of the Department in the State in which
13 the pilot program is carried out in accordance with
14 such standards for such positions as the Secretary
15 may establish; and

16 (B) promote and advance personnel serving in
17 such positions in accordance with such standards as
18 the Secretary may establish.

19 (2) Not later than 60 days after the designation of
20 a State as a location for a pilot program under this Act,
21 or at such other time as the Secretary may determine, the
22 Secretary shall request authority from the Director of the
23 Office of Management and Budget to permit the Secretary
24 to employ a number of full time equivalent employees in
25 the health care system of the Department in that State

1 which exceeds the number of such employees that would
2 otherwise be authorized for such employment by the Direc-
3 tor.

4 (3) Notwithstanding any other provision of law, em-
5 ployees of the Department at facilities of the Department
6 under a pilot program shall not, during the carrying out
7 of the pilot program, be subject to any reduction in the
8 number of full time employees of the Department or as
9 a result of a reduction in the number of full time employ-
10 ees of the Federal Government.

11 (h) ELIGIBLE PERSONS.—(1) A person eligible for
12 health care benefits under a pilot program is any person
13 residing in a State in which a pilot program is carried
14 out as follows:

15 (A) Any veteran.

16 (B) Any spouse or child of a veteran.

17 (C) Any individual eligible for care under para-
18 graph (2) or (3) of section 1713(a) of title 38,
19 United States Code.

20 (2) Notwithstanding any other provision of law, a
21 State may not require that any person other than a person
22 referred to in paragraph (1) be eligible for health care ben-
23 efits through the Department under a pilot program.

24 (i) COPAYMENTS AND OTHER CHARGES.—(1) Except
25 as provided in paragraph (2), the Secretary may collect

1 from or on behalf of any individual receiving health care
2 benefits from the Secretary under a pilot program under
3 this Act a premium, deductible, copayment, or other
4 charge with respect to the provision of a benefit under the
5 pilot program. The amount of the premium, deductible,
6 copayment, or other charge collected with respect to a ben-
7 efit provided under a pilot program may not exceed the
8 maximum amount otherwise permitted for a premium, de-
9 ductible, copayment, or other charge with respect to that
10 benefit under the comprehensive health benefits plan of
11 the State in which the pilot program is carried out.

12 (2)(A) Except as provided in subparagraph (B), the
13 Secretary shall not collect under the pilot programs pre-
14 miums, deductibles, copayments, and other charges with
15 respect to the benefits provided by the Department to the
16 following:

17 (i) Veterans with compensable service-connected
18 disabilities.

19 (ii) Veterans whose discharge or release from
20 active military, naval, or air service was for a com-
21 pensable disability that was incurred or aggravated
22 in the line of duty.

23 (iii) Veterans who are in receipt of, or who, but
24 for a suspension pursuant to section 1151 of title
25 38, United States Code (or both a suspension and

1 the receipt of retired pay), would be entitled to dis-
2 ability compensation, but only to the extent that
3 such veterans' continuing eligibility for such care is
4 provided for in the judgment or settlement provided
5 for in such section.

6 (iv) Veterans who are former prisoners of war.

7 (v) Veterans of the Mexican border period or of
8 World War I.

9 (vi) Veterans who are unable to defray the ex-
10 penses of necessary care, as determined in accord-
11 ance with section 1722(a) of such title.

12 (B) The Secretary may collect premiums, deductibles,
13 copayments, and other charges with respect to benefits
14 provided under a pilot program to veterans referred to in
15 subparagraph (A) from any third party obligated to pro-
16 vide, or to pay the expenses of, such benefits to or for
17 such veterans under the comprehensive health benefits
18 plan of the State in which the pilot program is carried
19 out.

20 (j) FUNDING.—(1) There is established in the Treas-
21 ury a fund to be known as the Department of Veterans
22 Affairs Health Care Reform Fund (hereafter referred to
23 in this subsection as the "Fund").

24 (2)(A) Notwithstanding any other provision of law,
25 amounts shall be deposited in the Fund as follows:

1 (i) Amounts collected under a pilot program in
2 accordance with subsection (i).

3 (ii) Amounts made available to a pilot program
4 based upon a determination under paragraph (3).

5 (iii) Amounts transferred to the Fund with re-
6 spect to a pilot program under paragraph (4).

7 (iv) Such other amounts as the Secretary and
8 the health system directors of the pilot programs
9 jointly determine to be necessary in order to carry
10 out the pilot programs.

11 (v) Such other amounts as may be appropriated
12 to the pilot programs.

13 (B) The Secretary shall make available amounts
14 under clauses (ii) and (iv) of subparagraph (A) from
15 amounts appropriated to the Department of Veterans Af-
16 fairs for the provision of health care services.

17 (C) The Secretary shall establish and maintain a sep-
18 arate account under the Fund for each pilot program car-
19 ried out under this Act. Any deposits and expenditures
20 with respect to a pilot program shall be made to or from
21 the account established and maintained with respect to
22 that pilot program.

23 (3)(A) For each year of the operation of a pilot pro-
24 gram under this Act, the Secretary shall deposit in ac-
25 count of the Fund for the pilot program an amount (as

1 determined by the Secretary) equal to the amount that
2 would otherwise be made available to the health care sys-
3 tem of the Department in the State in which the pilot pro-
4 gram is carried out for the payment of the cost of health
5 care services by such system in that State in that year.
6 The Secretary shall deposit such amount at the beginning
7 of such year.

8 (B) The costs referred to in subparagraph (A) shall
9 not include costs relating to the provision by the Secretary
10 of the following services:

11 (i) Services relating to post-traumatic stress
12 disorder.

13 (ii) Services relating to spinal-cord dysfunction.

14 (iii) Services relating to substance abuse.

15 (iv) Services relating to the rehabilitation of
16 blind veterans.

17 (v) Services relating to prosthetics.

18 (4) Funds deposited in the Medical-Care Cost Recov-
19 ery Fund established under section 1729(g) of title 38,
20 United States Code, during any fiscal year in an amount
21 in excess of the Congressional Budget Office baseline (as
22 of the date of the enactment of this Act) for deposits in
23 that fund for that fiscal year shall not be subject to para-
24 graph (4) of section 1710(f), 1712(f), or 1729(g) (as the
25 case may be) of that title, but shall be transferred to the

1 fund established under this subsection. Such transfer for
2 any fiscal year shall be made at any time that the total
3 of amounts so received less amounts estimated to cover
4 the expenses, payments, and costs described in paragraph
5 (3) of section 1729(g) of that title is in excess of the appli-
6 cable Congressional Budget Office baseline.

7 (5)(A) Notwithstanding any other provision of law,
8 the health system director for a State in which a pilot pro-
9 gram is carried out shall determine the costs for which
10 amounts in the Fund may be expended in carrying out
11 the pilot program.

12 (B)(i) Except as provided in clause (ii), the costs of
13 carrying out a pilot program under this paragraph shall
14 include any costs of marketing and advertising under the
15 program, costs of legal services provided to such pilot pro-
16 gram by the General Counsel of the Department of Veter-
17 ans Affairs, and costs relating to acquisition (including ac-
18 quisition of land), construction, repair, or renovation of
19 facilities.

20 (ii) Costs under this subparagraph shall not include
21 any costs relating to a major medical facility project or
22 a major medical facility lease as such terms are defined
23 in subparagraphs (A) and (B) of section 8104(a)(3) of
24 title 38, United States Code, respectively.

1 (C) Amounts in the Fund for the payment of costs
2 of a pilot program under this subsection shall be available
3 for such purpose without fiscal year limitation.

4 (k) TERMINATION.—A pilot program carried out
5 under this Act shall terminate not later than 2 years after
6 the date of the commencement of provision of benefits
7 under the pilot program.

8 **SEC. 4. REPORTS ON PILOT PROGRAMS.**

9 (a) COLLECTION OF INFORMATION.—(1) The Sec-
10 retary shall collect such information with respect to the
11 provision of health care benefits under each pilot program
12 as is necessary to permit the Secretary to evaluate the
13 pilot program in light of the purpose of the pilot program
14 under this Act.

15 (2) The information collected by the Secretary under
16 paragraph (1) shall include aggregated data on the follow-
17 ing:

18 (A) The number of persons participating in
19 each pilot program, including the age, sex, health
20 status, disability ratings (if any), employment sta-
21 tus, and incomes of such persons.

22 (B) The nature of benefits sought by such per-
23 sons under each pilot program.

24 (C) The nature and quantity of benefits pro-
25 vided to such persons under each pilot program.

1 (D) The cost to the Department of providing
2 such benefits under each pilot program.

3 (b) REPORTS.—(1) Not later than 14 months after
4 the date of the completion of the designation of States
5 as locations for pilot programs under this Act, the Sec-
6 retary shall submit to the Committees on Veterans' Affairs
7 of the Senate and House of Representatives a report on
8 the progress of the Secretary in carrying out the pilot pro-
9 grams. Such report shall include the information referred
10 to in subsection (a)(2) on the date of the report.

11 (2) Not later than November 30 of the year of the
12 termination of the final pilot program under this Act, the
13 Secretary shall submit to the committees referred to in
14 paragraph (1) a report on the pilot programs carried out
15 under this Act. The report shall include the following:

16 (A) The information referred to in subsection
17 (a)(2), together with the comments and conclusions
18 of the Secretary with respect to such information.

19 (B) An assessment by the Secretary of the util-
20 ity of each pilot program for carrying out the pur-
21 pose of this Act.

22 (C) An assessment by the Secretary of appro-
23 priate means of integrating the health care system
24 of the Department into the health care systems of
25 States that have enacted health care reform and into

1 the National health care system contemplated under
2 any plans for National health care reform.

3 (D) Such other information, assessments, and
4 conclusions as the Secretary considers appropriate.

5 **SEC. 5. DEFINITIONS.**

6 For the purposes of this Act—

7 (1) The terms “Secretary”, “Department”,
8 “veteran”, “child” and “spouse” have the meanings
9 given such terms in paragraphs (1), (2), (4), and
10 (31) of section 101 of title 38, United States Code,
11 respectively.

12 (2) The term “comprehensive health benefit
13 plan”, in the case of a State, means a plan or sys-
14 tem established under the law of the State that—

15 (A) attempts to ensure the access of resi-
16 dents of the State to a comprehensive package
17 of basic health care benefits; and

18 (B) ensures such access by providing that
19 such benefits shall be provided directly or by
20 contract by public and private entities.

21 (3) The term “comprehensive package of basic
22 health care benefits” means the health care benefits
23 provided for by a State under the comprehensive
24 health benefit plan of the State.

1 (4) The term “health care system of the De-
2 partment”, in the case of a State designated as a lo-
3 cation for a pilot program, means the facilities and
4 personnel of the Department located in that State
5 that provide health care services under chapter 17 of
6 title 38, United States Code.

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